

**REMARKS**

An excess claims fee letter and fee are attached for one excess total claim. Claims 1-30 are all of the claims currently pending. New claim 30 is added. Claims 17-20 and 27 are allowed.

It is noted that Applicant specifically states that no amendment herein to any claim should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-16 and 21-26 stand rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter because of the word “program” in the claims. Claims 1-7 and 21-26 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing the written description requirement because of the terminology “tangibly embodied” in the claims.

Claims 8-16 and 28-29 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

It is noted, for the benefit of the Examiner’s consideration that Applicant has amended the claims solely in an attempt to find claim language acceptable to this specific Examiner, using the language found on page 53 of the Guidelines for claims 1-7, 15, 21-26, and 30.

The revised wording of these claims clearly encompasses at least a “Beauregard claim” directed to a “computer program product”, consistent with the holding of *In re Beauregard*, 53 F.3d 1583 (Fed Cir 1995) and the resultant US Patent No. 5,710,578 that was issued on January 20, 1998, to Beauregard et al.

However, Applicant also submits, for the record, that the claim wording based on those found on page 53 of the Guidelines clearly additionally encompasses a computer program as stored in either volatile or non-volatile memory (e.g., RAM or hard drive) of a computer and, dependent upon future case holdings, may even encompass the program as encoded in a transmission between computers, since such transmission is clearly a “computer-readable medium” that is “encoded with a computer program.”

The revised wording for claims 8-14 and 16 are clearly using the wording of Beauregard claims and, therefore, clearly statutory subject matter.

Relative to the rejection for claims 1-7 and 21-26 under 35 U.S.C. § 112, first paragraph, Applicant completely disagrees with the Examiner’s position that “tangibly embodied” requires definition in the specification but has amended the claims in order to

expedite prosecution. Applicant further submits that the amended claim terminology is well known in the art, as indicated by its use in the Guidelines and that there is no need to have antecedent basis for such terminology in the specification because of its common understanding in the art.

Relative to the rejection for claims 8-16 and 28-29 under 35 U.S.C. § 112, second paragraph, Applicant completely disagrees with the Examiner's position but have amended the claims in order to expedite prosecution.

Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw these rejections.

#### **FORMAL MATTERS AND CONCLUSION**

In view of the foregoing, Applicant submits that claims 1-30, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance.

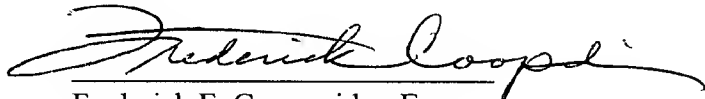
The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

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